

01-17-06 #4

EXPRESS MAIL LABEL NO. EV 687 636 528 US

**PETITION
UNDER 37 C.F.R. §1.47(a)**

Address to:
Box Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Attorney Docket	INTM-016
First Named Inventor	CRAGER, MICHAEL
Confirmation Number	7017
Application Number	10/525,583
International Filing Date	August 21, 2003
Group Art Unit	To Be Assigned
Examiner Name	To Be Assigned
Title	METHODS OF TREATING IDIOPATHIC PULMONARY FIBROSIS

01/17/2006 LUNDGRA 00000086 10525583

02 FC:1463

200.00 OP

Sir:

Applicants hereby petition to allow joint inventor Michael Crager of the above-referenced patent application to make an application on behalf of himself and on behalf of the joint inventor who has not joined in the application. **In the instant case, the joint inventor, Scott Harkonen has not signed the Declaration.** This constitutes a constructive refusal to sign.

As set forth in 37 CFR §1.47(a), if a joint inventor refuses to join in an application for patent, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor.

As provided for in MPEP §409.03(a), the declaration submitted herewith, signed by Michael Crager (with the signature block of the nonsigning inventor left blank), is to be treated as having been signed by the available joint inventor on behalf of the nonsigning inventor.

As required by 37 CFR §1.47(a), this petition is accompanied by:

- a) proof of the pertinent facts;
- b) the last known address of **Scott Harkonen**, the non-signing inventor; and
- c) the fee set forth in 37 CFR §1.17(g).

Proof of the Pertinent Facts Under 37 CFR §1.47(a): Co-Inventor Scott Harkonen has not signed and returned the Declaration

Scott Harkonen has not signed and returned the Declaration which was forwarded to him; this conduct constitutes a constructive refusal to sign. As provided for under 37 C.F.R. §1.47(a), the pertinent facts are set forth below.

RECEIVED

26 APR 2006

Int- Legal Staff

- The instant application is a national stage filing under 35 U.S.C. §371 of PCT Application No. PCT/US2003/26388, filed on August 21, 2003.
- The application as filed was provided to the Applicant, InterMune, Inc., on August 22, 2003. The Applicant provided a copy of the application as filed to the inventors, Michael Crager and Scott Harkonen. It was the practice of InterMune, Inc., to provide a copy of applications as filed to inventors. Scott Harkonen was an employee of InterMune, Inc., as of August 22, 2003. In accordance with InterMune, Inc.'s usual procedures, Scott Harkonen was provided with a copy of the PCT application as filed.
- On November 11, 2003, Scott Harkonen signed a General Power of Attorney in PCT/US2003/26388. A copy of the General Power of Attorney is provided herewith as Exhibit 1.
- The national stage was entered in the U.S. on February 23, 2005; and the application was accorded Serial No. 10/525,583. A copy of this application as filed was provided to the assignee, InterMune, Inc., on February 24, 2005.
- The specification, claims, and drawings of PCT Application No. PCT/US2003/26388 and the instant application, U.S. Serial No. 10/525,583, are identical in substance. No changes to the application were made upon entering the U.S. national stage. PCT/US2003/26388 published as PCT Publication No. WO 2004/019758 on March 11, 2004. Thus, the published application of PCT/US2003/26388 is identical in substance to the instant application and is publicly available.
- On April 29, 2005, Declarations were sent via U.S. Postal Service (USPS) regular mail to InterMune, Inc., and to Michael Crager and Scott Harkonen. A copy of the April 29, 2005 cover letter is provided herewith as Exhibit 2.
- On October 17, 2005, a reminder was sent via USPS regular mail to InterMune, Inc. and Scott Harkonen, along with a further copy of the Declaration. A copy of the October 17, 2005 reminder cover letter is provided herewith as Exhibit 3.
- On December 2, 2005, a reminder was sent via USPS regular mail to Scott Harkonen, along with a further copy of the Declaration. A copy of the December 2, 2005 reminder cover letter is provided herewith as Exhibit 4.
- On December 6, 2005, a further copy of the Declaration was sent to Scott Harkonen via Federal Express. The Federal Express tracking report indicate that the Declaration was delivered to Scott Harkonen on December 6, 2005. A copy of the Federal Express tracking report is provided herewith as Exhibit 5.

Despite numerous requests, as outlined above, Scott Harkonen has not returned a signed and dated Declaration.

Last Known Address of Non-Signing Inventor as Required by 37 CFR §1.47(a)

The last known address of the non-signing inventor, Scott Harkonen, is:

Scott Harkonen
125 Montalvo Avenue
San Francisco, CA 94116

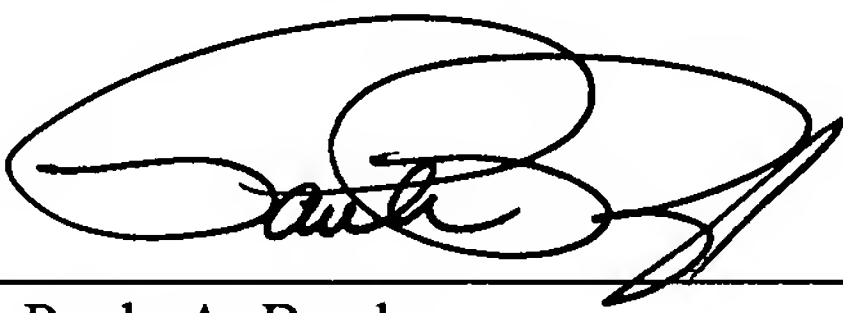
Conclusion

Scott Harkonen's conduct constitutes a constructive refusal to sign. It is respectfully requested that the Declaration signed by Michael Crager be accepted in this application in fulfillment of the requirements under 35 U.S.C. §371.

The Commissioner is hereby authorized to charge fees associated with the filing of this petition under 37 CFR §1.17(g), and any additional fees which may be required by this paper, or to credit any overpayment, to Deposit Account No. 50-0815, account number INTM-016.

Respectfully submitted,
BOZICEVIC, FIELD & FRANCIS LLP

Date: Jan. 9, 2006

By: 
Paula A. Borden
Registration No. 42,344

BOZICEVIC, FIELD & FRANCIS LLP
1900 University Avenue, Suite 200
East Palo Alto, CA 94303
Telephone: (650) 327-3400
Facsimile: (650) 327-3231

PCT

GENERAL POWER OF ATTORNEY

(for several international applications filed under the Patent Cooperation Treaty)
(PCT Rule 90.5)

The undersigned person(s)

(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.)

HARKONEN, Scott
125 Montalvo Avenue
San Francisco, California 94116
US

hereby appoint(s) the following person as:

☒ agent ☐ common representative

Name and address

(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.)

BOZICEVIC, Karl
FIELD, Bret E.
FRANCIS, Carol L.
SHERWOOD, Pamela J.
BORDEN, Paula A.
LASALLE, Carol
BECKING, Frank
KEDDIE, James S.
TALL, Susan C.

Bozicevic, Field & Francis LLP
200 Middlefield Road, Suite 200
Menlo Park, California 94025
US

to represent the undersigned before

☒ all the competent International Authorities
☐ the International Searching Authority only
☐ the International Preliminary Examining Authority only

in connection with any and all international applications filed by the undersigned with the following Office United States as receiving Office and to make or receive payments on behalf of the undersigned.

Signatures of the Applicant(s) (where there are several applicants, each of them must sign; next to each signature, indicate the name of the person signing and the capacity in which the person signs, if such capacity is not obvious from reading the request or this power)



Scott Harkonen

Date: November 11, 2003

BOZICEVIC, FIELD & FRANCIS LLP

INTELLECTUAL PROPERTY LAW

1900 UNIVERSITY AVENUE, SUITE 200
EAST PALO ALTO, CALIFORNIA 94303

TELEPHONE (650) 327-3400
FACSIMILE (650) 327-3231

April 29, 2005

John Bendrick, Ph.D.
InterMune, Inc.
3280 Bayshore Boulevard
Brisbane, California 94005

Re: U.S. Application Serial No. N/A for
"METHODS OF TREATING IDIOPATHIC PULMONARY FIBROSIS"
First Named Inventor: CRAGER, MICHAEL
Our Reference: INTM-016

Dear Mr. Bendrick:

Enclosed are documents in anticipation of the Notice to File Missing Parts of Application from the U.S. Patent and Trademark Office in connection with the above-captioned application.

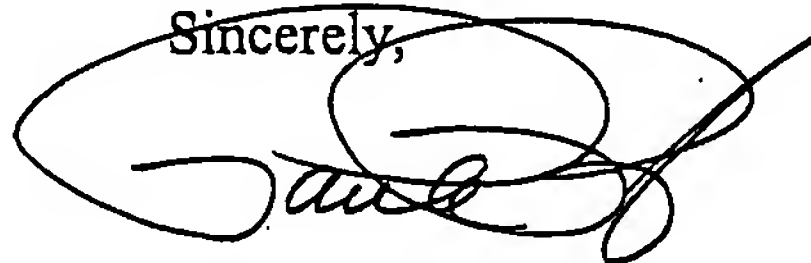
The Patent Office requires that executed formal papers be filed. To that end, enclosed please find a Declaration and Assignment documents to be signed by the inventors where indicated and returned to us.

These documents should be signed and dated in blue ink. The Declaration and Assignment documents should reflect the inventors' full, correctly spelled, legal names, current residential address, and country of citizenship. Any errors in these documents can be corrected by the individual providing the correction in ink, and initialing and dating the correction. Any corrections made without initialing and dating the corrections will render the documents useless.

Once the documents are signed and dated, please return them to me. The documents will then be filed in the U.S. Patent and Trademark Office in response to the Notice to File Missing Parts.

Please contact me with any questions or comments you may have regarding this matter. I can be reached by telephone at (650) 833-7710 or by email at borden@bozpat.com.

Sincerely,



Paula A. Borden

PAB:CKH
Enclosures

cc: Michael Crager
Scott Harkonen

Sent 6/1/05

BOZICEVIC, FIELD & FRANCIS LLP

INTELLECTUAL PROPERTY LAW

1900 UNIVERSITY AVENUE, SUITE 200
EAST PALO ALTO, CALIFORNIA 94303

TELEPHONE (650) 327-3400
FACSIMILE (650) 327-3231

April 29, 2005

October 17, 2005

John Bendrick, Ph.D.
InterMune, Inc.
3280 Bayshore Boulevard
Brisbane, California 94005

REMINDER

Re: U.S. Application Serial No. N/A for
"METHODS OF TREATING IDIOPATHIC PULMONARY FIBROSIS"
First Named Inventor: CRAGER, MICHAEL
Our Reference: INTM-016

Dear Mr. Bendrick:

Enclosed are documents in anticipation of the Notice to File Missing Parts of Application from the U.S. Patent and Trademark Office in connection with the above-captioned application.

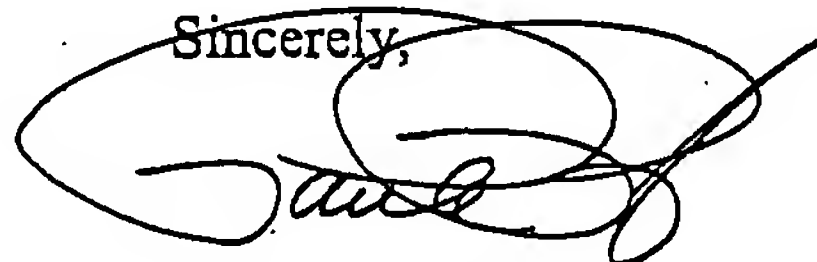
The Patent Office requires that executed formal papers be filed. To that end, enclosed please find a Declaration and Assignment documents to be signed by the inventors where indicated and returned to us.

These documents should be signed and dated in blue ink. The Declaration and Assignment documents should reflect the inventors' full, correctly spelled, legal names, current residential address, and country of citizenship. Any errors in these documents can be corrected by the individual providing the correction in ink, and initialing and dating the correction. Any corrections made without initialing and dating the corrections will render the documents useless.

Once the documents are signed and dated, please return them to me. The documents will then be filed in the U.S. Patent and Trademark Office in response to the Notice to File Missing Parts.

Please contact me with any questions or comments you may have regarding this matter. I can be reached by telephone at (650) 833-7710 or by email at borden@bozpat.com.

Sincerely,



Paula A. Borden

PAB:CKH
Enclosures

cc: Michael Crager
Scott Harkonen

BOZICEVIC, FIELD & FRANCIS LLP

INTELLECTUAL PROPERTY LAW

1900 UNIVERSITY AVENUE, SUITE 200
EAST PALO ALTO, CALIFORNIA 94303

REMINDER TELEPHONE (650) 327-3400
FACSIMILE (650) 327-3231

April 29, 2005

~~October 11, 2005~~

REMINDER December 2, 2005

John Bendrick, Ph.D.
InterMune, Inc.
3280 Bayshore Boulevard
Brisbane, California 94005

Re: U.S. Application Serial No. N/A for
"METHODS OF TREATING IDIOPATHIC PULMONARY FIBROSIS"
First Named Inventor: CRAGER, MICHAEL
Our Reference: INTM-016

Dear Mr. Bendrick:

Enclosed are documents in anticipation of the Notice to File Missing Parts of Application from the U.S. Patent and Trademark Office in connection with the above-captioned application.

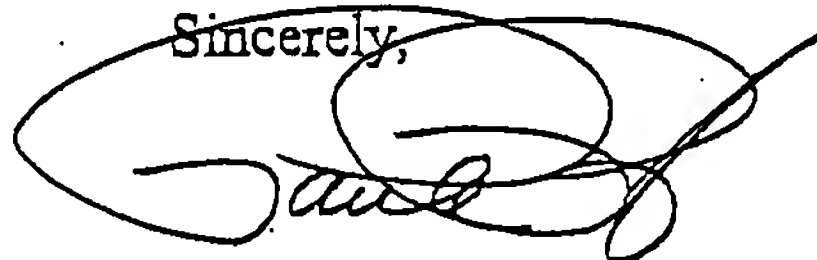
The Patent Office requires that executed formal papers be filed. To that end, enclosed please find a Declaration and Assignment documents to be signed by the inventors where indicated and returned to us.

These documents should be signed and dated in blue ink. The Declaration and Assignment documents should reflect the inventors' full, correctly spelled, legal names, current residential address, and country of citizenship. Any errors in these documents can be corrected by the individual providing the correction in ink, and initialing and dating the correction. Any corrections made without initialing and dating the corrections will render the documents useless.

Once the documents are signed and dated, please return them to me. The documents will then be filed in the U.S. Patent and Trademark Office in response to the Notice to File Missing Parts.

Please contact me with any questions or comments you may have regarding this matter. I can be reached by telephone at (650) 833-7710 or by email at borden@bozpat.com.

Sincerely,



Paula A. Borden

PAB:CKH
Enclosures

cc: Michael Crager
Scott Harkonen ✓

Please sign and
return the enclosed
documents to us by
12/10/05.

Thank you
Cindy Hoang